

II. Remarks

A. Status of the Claims

Claims 1-59 and 61 are pending. Claim 60 has been cancelled without prejudice to conform the claims with Group I of the Restriction Requirement of March 19, 2002, in the parent application, U.S. Serial No. 09/781,081, now U.S. Patent No. 6,696,088.

B. Double Patenting Rejections

In the Office Action, the Examiner rejected claims 1-61 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over:

- claims 62-73 of co-pending application no. 10/700,861; and
- claims 62-74 of co-pending application no. 10/700,906.

Prior to addressing this rejection, Applicants note that the claims of the co-pending application no. 10/700,906 have been amended with a concurrently filed paper to cancel claims 62-74 and add new claims 75-78. Accordingly, Applicants will address this rejection as it is applied to the newly added claims of co-pending application no. 10/700,906.

This rejection is traversed. Applicants respectfully submit that claims 1-59 and 61 of the present application, claims 62-73 of co-pending application no. 10/700,861, and claims 75-79 of co-pending application no. 10/700,906 were introduced in the

parent application, U.S. Application Serial No. 09/781,081, now U.S. Patent No. 6,696,088, and were subject to a Restriction Requirement issued March 19, 2002.

In the Restriction Requirement, claims 1-59 and 61 of the present application correspond with claims 1-59 and 61 of the parent application and were categorized as Group I; claims 62-73 of co-pending application no. 10/700,861 correspond with claims 65-68, 83-89 and 95 of the parent application and were categorized as Group III; and claims 75-78 of co-pending application no. 10/700,906 correspond with claims 96-99 of the parent application and were categorized as Group V. A copy of the March 19, 2002 Restriction Requirement is enclosed as Exhibit A.

Applicants point out that claims 62-74 of co-pending application no. 10/701,401¹ are the same as cancelled claims 62-74 of co-pending application no. 10/700,906. These claims correspond to claims 62-64, 75-80 and 90-94 of the parent application (categorized as Group II in the Restriction Requirement).

The Examiner is respectfully reminded that "[w]here restriction is required by the Office double patenting cannot be held". MPEP 8th Ed. 4th Rev. §806. As discussed above, the Examiner in the parent application indicated that the present claims (Group I of the Restriction Requirement) were patentably distinct over claims 62-73 of co-pending application no. 10/700,861 (Group III of the Restriction Requirement) and claims 75-78 of co-pending application no. 10/700,906 (Group V of

¹ Co-pending application serial no. 10/701,401 was not cited by the Examiner in the present Office Action..

the Restriction Requirement). Therefore, Applicants respectfully submit that the double patenting rejection of the present claims over the claims of the cited co-pending applications is improper.

Accordingly, Applicants respectfully request that the Examiner remove the provisional nonstatutory obviousness type double patenting rejections.

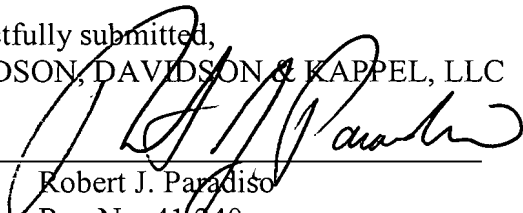
III. Conclusion

It is respectfully submitted that in view of the arguments presented, the claims are in condition for allowance. An early and favorable action on the merits is earnestly solicited.

According to currently recommended Patent Office policy the Examiner is requested to contact the undersigned in the event that a telephonic interview will advance the prosecution of this application.

Respectfully submitted,
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